

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

GW EQUITY, LLC,)	
)	
Plaintiff,)	CIVIL ACTION NO.
)	3-07 CV 0976-K
v.)	
)	
XCENTRIC VENTURES, LLC, <i>ET AL.</i> ,)	
)	
Defendants.)	

DEFENDANTS' DESIGNATION OF MEDIATOR

Defendants Xcentric Ventures, LLC ("Xcentric") and Ed Magedson ("Magedson") (collectively, "Defendants") files this designation of mediator in the above referenced case.

Plaintiff GW Equity, LLC initiated communications as to its preferences for potential mediators in this case. Defendants responded to Plaintiff's overtures; however, Defendants advised Plaintiff that Magedson does not fly, and therefore it would be an undue burden for him to participate in person in mediation in Dallas, Texas, where Plaintiff had proposed. Defendants explained to Plaintiff that it would be a great burden for Magedson to have to drive the over fifteen hours from Phoenix, Arizona to Dallas, Texas for the purpose of mediation. Instead, Defendants offered Plaintiff two alternatives – either the mediation could be held in Phoenix, Arizona, where Magedson could attend without having to travel by airplane, or Magedson could appear at the mediation by telephone.

Communications between the parties ceased on October 26, 2007, before the parties could come to an agreement as to a mediator. Defendants therefore make the following proposals for the designation of a mediator:

1. Defendants request that the Court enter an Order designating Gary Birnbaum, a Phoenix attorney, as the mediator for the parties, and ordering Plaintiff to attend the mediation to be held in Phoenix, Arizona; or
2. Defendants request that the Court enter an Order designating either Earl Hale or Christopher Nolland, Plaintiff's mediators of choice, for the mediation to be held in Dallas, Texas if Defendant Ed Magedson be allowed to appear at the mediation telephonically.

DATED this 5th day of November, 2007.

JABURG & WILK, P.C.

/s/ Maria Crimi Speth
Maria Crimi Speth, Esq.
JABURG & WILK PC
3200 North Central Avenue
Suite 2000
Phoenix, Arizona 85012
(602) 248-1000
Attorneys for Defendants
Admitted Pro Hac Vice

Jeffrey S. Seeburger
Texas State Bar No. 00788381
KANE RUSSELL COLEMAN
& LOGAN, P.C.
3700 Thanksgiving Tower
1601 Elm Street
Dallas, Texas 75201
Tel: (214) 777-4275
Fax: (214) 777-4299

Certificate of Service

I hereby certify that on November 5, 2007, I electronically transmitted the attached document to the Clerk's Office using the CM/ECF System for filing, and for transmittal of a Notice of Electronic Filing to the following CM/ECF registrants:

John T Cox, III
Lynn Tillotson & Pinker
750 N St Paul St
Suite 1400
Dallas, TX 75201
Attorneys for Plaintiff

Jeffrey Scot Seeburger
Kane Russell Coleman & Logan
3700 Thanksgiving Tower
1601 Elm St
Dallas, TX 75201

With a COPY of the foregoing mailed this 5th day of November, 2007, to:

Honorable Ed Kinkeade
U. S. District Court
Northern District of Texas
1100 Commerce Street
Room 1625
Dallas, Texas 75242-1003

/s/ Debra Gower